

AMENDED IN SENATE MAY 2, 2011

SENATE BILL

No. 515

Introduced by Senator Corbett

February 17, 2011

An act to add Article 3 (commencing with Section 42450.1) to Chapter 8 of Part 3 of, and Article 5 (commencing with Section 44220) to Chapter 3 of Part 4 of, Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 515, as amended, Corbett. Recycling: product stewardship: batteries: universal waste management facilities.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires retailers of rechargeable batteries to have in place a system for the acceptance and collection of rechargeable batteries.

The bill would require, by ~~September 30, 2012~~ *April 1, 2013*, a producer, or the household battery stewardship organization created by one or more producers, of a household battery to submit a household battery stewardship plan to the department, which would be required to include specified elements. The bill would allow a registered hazardous waste transporter to elect to submit a household battery stewardship plan to the department on behalf of one or more producers and would require a hazardous waste transporter making that election to comply with the provisions of the bill applicable to a household battery stewardship organization.

The bill would require the department to review a household battery stewardship plan submitted to the department and *either* deem the plan

~~either complete or incomplete~~ within ~~45~~ 30 days after receipt *or take specified actions.*

The bill would prohibit a producer, wholesaler, or retailer, on and after January 1, 2014, from selling a household battery unless the plan for that battery is deemed complete by the department. The act would require a producer or the household battery stewardship organization to implement the household battery program pursuant to the household battery stewardship plan, including achieving a specified collection rate, *and contacting cities, counties, districts, and regional agencies either to reimburse the local public agency for the mutually agreed upon cost of collecting household batteries or provide for the pickup of household batteries, or both.* The bill would require each producer or household battery stewardship organization implementing a household battery stewardship plan to prepare and submit to the department an annual report describing the activities carried out pursuant to the household battery stewardship plan.

The bill would require a producer or household battery stewardship organization submitting a household battery stewardship plan to pay the department a plan review fee, as determined by the department, when submitting the plan to the department and to pay an administrative fee, as determined by the department, when submitting the annual report. The bill would provide for the imposition of administrative civil penalties ~~upon a producer that does not comply with the bill's requirements or a wholesaler or retailer selling household batteries in violation of the bill.~~ The bill would create the Household Battery Stewardship Account in the existing Integrated Waste Management Fund and would require that the fees be deposited into that account and that the penalties be deposited into the Household Battery Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and would authorize all funds collected or received by the department under the program, except for the fees, to be expended as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of household batteries.

(2) Existing law requires the Department of Toxic Substances Control (DTSC) to exercise enforcement and regulatory authority with regard to the hazardous waste accepted at a facility that accepts both hazardous waste and other solid waste.

This bill would require DTSC, upon the request of an applicant for a project to construct, expand, or retrofit a solid waste facility to process, collect, or recycle a universal waste, as defined, to appoint an administrative liaison to serve as the applicant's single point of contact, and to provide other information and assistance.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In early 2006, all household batteries were classified by the
4 state as universal waste and prohibited from being disposed of in
5 solid waste landfills. Under state law, "household batteries" means
6 batteries made of mercury, alkaline, carbon-zinc, and
7 nickel-cadmium, and other batteries typically generated as
8 household waste, including, but not limited to, batteries used in
9 hearing aids, cameras, watches, computers, calculators, flashlights,
10 lanterns, standby and emergency lighting, portable radios,
11 television sets, meters, toys, and clocks, but excluding lead-acid
12 batteries, batteries that are sold in a "covered electronic device,"
13 as defined in Section 42463 of the Public Resources Code, and
14 batteries that are not easily removable or are not intended or
15 designed to be removed from the products, other than by the
16 manufacturer.

17 (b) Effective July 1, 2006, state law prohibited most retailers
18 from selling rechargeable batteries in the state unless they have a
19 system in place for collecting used rechargeable batteries from
20 consumers.

21 (c) Approximately 80 percent of batteries sold in this state are
22 alkaline batteries and are not covered under the retail take-back
23 requirements.

24 (d) Local governments throughout the state are responsible for
25 the collection and management of household batteries, and to
26 manage this hazardous waste, these local governments and
27 taxpayers pay a range of between eight hundred dollars (\$800) per
28 ton to two thousand seven hundred dollars (\$2,700) per ton, or
29 tens of millions of dollars each year.

1 (e) Because other types of recycling programs have proven to
2 have limited success, state and regional governments in Europe
3 and Canada have adopted producer responsibility programs to
4 redirect the responsibility for the end-of-life management of
5 discarded hazardous and hard-to-manage products from local
6 governments and retailers primarily to producers.

7 (f) After many public hearings and discussions, the former
8 California Integrated Waste Management Board adopted an overall
9 Framework for an Extended Producer Responsibility (EPR)
10 guidance document as a policy priority in January 2008.

11 (g) The program established by this act is intended to reduce
12 costs to local government, to harmonize the state's producer
13 responsibility obligations with other national and international
14 programs, and to enhance the protection of public health and
15 environment through safer product design, use, and end-of-life
16 management.

17 (h) The plan review fee and the administrative fee imposed
18 pursuant to Section 42450.10 of the Public Resources Code are
19 regulatory fees within the meaning of paragraph (3) of subdivision
20 (b) of Section 3 of Article XIII A of the California Constitution,
21 as the fees are imposed solely for the purpose of recovering the
22 reasonable regulatory costs to the Department of Resources
23 Recycling and Recovery incident to investigating, inspecting, and
24 auditing the fee payer, and the enforcement costs thereof, and with
25 respect to reviewing the battery stewardship plan, and the annual
26 reports and enforcing Article 3 (commencing with Section 42450.1)
27 of Chapter 8 of Part 3 of Division 30 of the Public Resources Code.

28 SEC. 2. Article 3 (commencing with Section 42450.1) is added
29 to Chapter 8 of Part 3 of Division 30 of the Public Resources Code,
30 to read:

31
32 Article 3. Product Stewardship for Household Batteries
33

34 42450.1. For purposes of this article, and unless the context
35 otherwise requires, the definitions in this article govern the
36 construction of this article.

37 (a) "Brand" means a name, symbol, word, or mark that identifies
38 a household battery, rather than its components, and attributes the
39 household battery to the owner or licensee of the brand as the
40 producer.

(b) “Collection rate” means a quantitative measure established in each household battery stewardship plan that establishes the amount of household batteries required to be collected by the household battery stewardship system for that household battery by an established date. The collection rate is included as a component of the product goals for a household battery. The collection rate shall be calculated by weight and shall distinguish between nonrechargeable household batteries and rechargeable household batteries, but not by the individual producer of each battery.

(c) “Department” means the Department of Resources Recycling and Recovery.

(d) (1) “Household battery” has the same meaning as defined in subdivision (c) of Section 42450, but shall not include any of the following:

(A) A battery that is sold in a covered electronic device, as defined in Section 42463.

(B) A battery that is not easily removable or is not intended or designed to be removed from the product, other than by the manufacturer.

(2) “Household battery” includes both the class of nonrechargeable household batteries and the class of rechargeable household batteries.

(e) “Household battery stewardship organization” means an organization appointed by one or more producers to act as an agent on behalf of the producer to design, submit, and administer a household battery stewardship plan pursuant to this article.

(f) “Household battery stewardship plan” or “plan” means a plan written by an individual producer, a household battery stewardship organization, or a hazardous waste transporter registered pursuant to Section 25163 of the Health and Safety Code, on behalf of one or more producers, that includes all of the information required by Section 42450.2.

(g) *“Maximum feasible recovery of materials from collected household batteries” means the reclamation of metals or other source materials from a used household battery using a proven technology that has been demonstrated commercially to be economically achievable and sustainable.*

~~(g)~~

1 (h) “Nonrechargeable battery” means a household battery that
2 is not designed to be recharged for repeated use.

3 ~~(h)~~

4 (i) “Producer” shall be determined, with regard to a household
5 battery that is sold, offered for sale, or distributed in the state, as
6 meaning one of the following:

7 (1) The person who manufactures the household battery and
8 who sells, offers for sale, or distributes that household battery in
9 the state under that person’s own name or brand.

10 (2) If there is no person who sells, offers for sale, or distributes
11 the household battery in the state under the person’s own name or
12 brand, the producer of the household battery is the owner or
13 licensee of a trademark or brand under which the household battery
14 is sold or distributed in the state, whether or not the trademark is
15 registered.

16 (3) If there is no person who is a producer of the household
17 battery for purposes of paragraphs (1) and (2), the producer of that
18 household battery is the person who imports the household battery
19 into the state for sale or distribution.

20 ~~(i)~~

21 (j) “Product stewardship” means requiring the producer of a
22 household battery, and all other entities involved in the distribution
23 chain of a household battery, to share in the responsibility of
24 reducing the life-cycle impact of the household battery and its
25 packaging, including requiring the producer who makes design
26 and marketing decisions for the household battery to bear the
27 primary responsibility for this reduction.

28 ~~(j)~~

29 (k) “Product goal” means those qualitative or quantitative goals
30 determined by the producer to address and measure source
31 reduction, material content, packaging, and end-of-life
32 management.

33 ~~(k)~~

34 (l) “Program” means the system for the collection,
35 transportation, recycling, and disposal of household batteries
36 pursuant to a completed household battery stewardship plan that
37 is financed and managed or provided by an individual producer,
38 collectively by one or more producers or by a hazardous waste
39 transporter pursuant to paragraph (2) of subdivision (a) of Section
40 42450.2.

~~(t)~~

(m) (1) “Rechargeable household battery” means a household battery that consists of one or more voltaic or galvanic cells, which are electrically connected to produce electric energy, that is designed to be recharged for repeated use and that weighs less than 10 pounds.

(2) “Rechargeable household battery” includes a battery pack that combines one or more rechargeable household batteries and weighs, in total, less than 10 pounds.

(3) “Rechargeable household battery” does not include a battery of any size used to start an internal combustion engine or as the principal electrical power source for a vehicle or boat.

~~(m) “Recycling rate” means a quantitative measure that establishes the amount of collected household batteries that is recycled as compared to the total amount of household batteries that is collected, including the amount of the household batteries that is discarded for reuse, energy recovery, or safe disposal.~~

(n) “Reporting period” means the period commencing January 1 and ending on December 31 of the same calendar year.

(o) “Retailer” means a person that offers new household batteries in a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, including a retail sale at retail through any means, including remote offerings such as sales outlets, catalogs, or an Internet Web site.

~~(p) “Reuse rate” means a quantitative measure that establishes the amount of collected household batteries that is reused as compared to the total amount of household batteries that is collected, including the amount of household batteries that is discarded by recycling, energy recovery, or safe disposal.~~

~~(q)~~

(p) “Sell” or “sales” means any transfer of title of a household battery for consideration, including a remote sale conducted through a sale outlet, catalog, or Internet Web site or similar electronic means, but does not include a lease.

~~(r)~~

(q) “Wholesaler” means a person that offers new household batteries for sale in this state in a sale that is not a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, and for which the household battery is intended to be resold.

1 42450.2. (a) (1) On or before ~~September 30, 2012~~, *April 1,*
2 *2013*, each producer or the household battery stewardship
3 organization for producers of household batteries shall submit a
4 household battery stewardship plan to the department.

5 (2) A hazardous waste transporter registered pursuant to Section
6 25163 of the Health and Safety Code may elect to submit a
7 household battery stewardship plan to the department on behalf
8 of one or more producers, and, if so, the hazardous waste
9 transporter shall submit the household battery stewardship plan to
10 the department on or before September 30, 2012, and shall comply
11 with the provisions of this article that apply to a household battery
12 stewardship organization, including, but not limited to, the
13 requirements of subdivisions (b) and (c) and payment of the fees
14 specified in Section 42450.10.

15 (b) A producer, group of producers, or household battery
16 stewardship organization shall consult with stakeholders during
17 the development of the household battery stewardship plan,
18 including soliciting stakeholder comments and responding to
19 stakeholder comments prior to submitting the household battery
20 stewardship plan.

21 (c) Each household battery stewardship plan shall include, at a
22 minimum, all of the following elements:

23 (1) Contact information for all participating producers.

24 (2) The collection rate for the household batteries subject to the
25 plan, which shall be calculated for each class of household batteries
26 subject to the plan, in the following manner, except as provided
27 in Section 42450.4:

28 ~~(A) On and after January 1, 2015, the collection rate shall be~~
29 ~~25 percent of the average number of household batteries that are~~
30 ~~sold in the state during the previous three calendar years by the~~
31 ~~producers who are subject to that plan.~~

32 ~~(B) On and after January 1, 2017, the collection rate shall be~~
33 ~~45 percent of the average number of household batteries that are~~
34 ~~sold in the state during the previous three calendar years by the~~
35 ~~producers who are subject to that plan.~~

36 ~~(C) On January 1, 2018, and annually thereafter, the producer~~
37 ~~shall demonstrate to the department that it has achieved continuous~~
38 ~~meaningful improvement in the collection rate.~~

39 *(A) A baseline of the number of household batteries collected*
40 *by all producers subject to the plan, which shall be calculated by*

1 *weight based on the percentage of household batteries collected*
2 *during the 2012 calendar year, as compared to the average number*
3 *of household batteries that were sold in the state during the*
4 *previous three calendar years by all producers that are subject to*
5 *that plan, for each class of household batteries subject to the plan.*

6 *(B) On January 1, 2014, and annually thereafter, the program*
7 *shall achieve an annual increase in the household battery*
8 *collection rate of 5 percent, starting at the baseline rate calculated*
9 *pursuant to subparagraph (A) for the 2012 calendar year, for each*
10 *class of household batteries, and shall substantially increase that*
11 *collection rate until reaching a 70 percent collection rate for each*
12 *class of household batteries.*

13 *(C) If the program achieves an increase in the collection rate*
14 *of more than 5 percent for any given year, the program may*
15 *attribute that increase to subsequent years for purposes of*
16 *determining compliance with subparagraph (B).*

17 *(3) A description of all of the following elements:*

18 *(A) Brands of the household batteries covered by the plan and*
19 *if the brand is a rechargeable household battery or a*
20 *nonrechargeable household battery.*

21 ~~*(B) The manner in which the product goals will be achieved.*~~

22 ~~*(C) The annual schedule for achievement of the collection rate*~~
23 ~~*for each class of household batteries covered by the plan consistent*~~
24 ~~*with the requirements of paragraph (2).*~~

25 ~~*(D) The number and type of convenient collection opportunities*~~
26 ~~*free of charge for consumers in all counties of the state, including*~~
27 ~~*those supporting the retailer collection of used rechargeable*~~
28 ~~*household batteries required by Section 42453.*~~

29 ~~*(E) Reuse rate and recycling rate for the household batteries*~~
30 ~~*manufactured by the producer.*~~

31 *(B) The baseline of household batteries collected during*
32 *calendar year 2012, as determined pursuant to subparagraph (A)*
33 *of paragraph (2).*

34 *(C) The number and type of convenient collection opportunities*
35 *provided free of charge for consumers in all counties of the state,*
36 *including those supporting the retailer collection of used*
37 *rechargeable household batteries required by Section 42453.*

38 *(D) How the plan will establish convenient collection points in*
39 *every county so as to provide, at a minimum, one collection point*
40 *per 10,000 people in each county by January 1, 2014, and one*

1 collection point per 5,000 people in each county by January 1,
2 2018.

3 (E) How the plan will achieve a maximum feasible recovery of
4 materials from collected household batteries.

5 (F) Roles and responsibilities of key participants in the
6 household battery distribution chain.

7 ~~(G) Procedures to be used for notifying retailers and wholesalers~~
8 ~~of the program.~~

9 (G) The outreach procedures that will be used to provide notice
10 of the program to employers, local agencies, retailers, wholesalers,
11 and waste haulers.

12 (H) The manner in which existing collection points and
13 programs can be identified and maximized to achieve the required
14 collection rates.

15 (4) (A) The financing method selected to sustainably fund the
16 implementation of the plan for achieving the identified collection
17 rates as described in the plan, pursuant to paragraph (2).

18 (B) The financing method shall not include a separate and
19 distinct fee at the point of purchase.

20 ~~(5) Education and outreach activities to maximize collection~~
21 ~~rates.~~

22 (5) The planned educational activities to maximize collection
23 rates, including, but not limited to, the use of social media,
24 billboards, print, and radio, and information provided at the point
25 of sale.

26 (6) A producer or household battery stewardship organization
27 shall contact cities, counties, districts, and regional agencies, in
28 whose jurisdictions the program will be implemented, to do either,
29 or both, of the following:

30 (A) Reimburse the local public agency for the mutually agreed
31 upon cost of collecting household batteries.

32 (B) Provide the local public agency with the location, hours,
33 and contact information for the convenient collection points for
34 household batteries that are located within the county where the
35 local agency is located and are consistent with the plan.

36 42450.3. A household battery stewardship program shall be
37 considered in compliance with this article if it achieves the
38 collection rate for each class of household batteries covered by the
39 plan as required by paragraph (2) of subdivision (c) of Section
40 42450.2. If only one class of household batteries achieves its

1 collection rate required by paragraph (2) of subdivision (c) of
2 Section 42450.2, that portion of the program governing that class
3 of household batteries shall be considered in compliance with the
4 plan.

5 42450.4. A producer may petition the department for an
6 adjustment to the collection rate. The department may grant an
7 adjustment to the collection rate only if the department determines
8 there are documented exigent circumstances that are beyond the
9 control of the producer or household battery stewardship
10 organization.

11 42450.5. (a) The department shall review a plan ~~within 45~~
12 ~~days after the date the plan is received and either deem the plan~~
13 ~~complete or incomplete. If the department does not deem the plan~~
14 ~~complete, the department shall notify the producer or organization~~
15 ~~that submitted the plan of the deficiencies and the producer or, to~~
16 *ensure that each plan element has been addressed in the plan,*
17 *within 30 days after the date the plan is received. The department*
18 *shall perform only a completeness check and shall deem the plan*
19 *complete if each plan element has been addressed. If the*
20 *department does not deem the plan complete, the department shall*
21 *notify the producer or organization that submitted the plan which*
22 *elements were not addressed, and the producer or organization*
23 *shall revise and resubmit the plan within 45 days after receiving*
24 *the notification. If the department deems the plan complete, the*
25 *department shall, within 45 days after receipt, notify the producer*
26 *or organization that the submitted plan is complete.*

27 (b) The department shall make all household battery stewardship
28 plans submitted to the department available to the public on the
29 department's Internet Web site.

30 (c) A producer shall notify the department 30 days before
31 instituting a significant or material change to a household battery
32 stewardship plan.

33 (d) ~~On or before July 1, 2013, and on or before July 1 September~~
34 ~~1, 2013, and on or before September 1~~ annually thereafter, the
35 department shall post on its Internet Web site a listing of the brands
36 of household batteries for which the producer is in compliance
37 with this article.

38 42450.6. On and after January 1, 2014, a producer, wholesaler,
39 or retailer shall not offer a household battery for sale in this state

1 or offer a household battery for promotional purposes in this state
2 unless one of the following applies:

3 (a) The plan submitted by the producer or household battery
4 stewardship organization of that household battery has been
5 deemed complete by the department pursuant to Section 42450.5.

6 (b) A plan submitted by a hazardous waste transporter on behalf
7 of the producer of that household battery pursuant to paragraph
8 (2) of subdivision (a) of Section 42450.2 is deemed complete by
9 the department.

10 42450.7. Upon receiving notification from the department
11 pursuant to Section 42450.5 that a plan is complete, the producer
12 or the household battery stewardship organization shall do all of
13 the following:

14 (a) Implement the plan, including, but not limited to, achieving
15 the collection rate specified in the plan.

16 (b) Pay the administrative fees imposed pursuant to subdivision
17 (b) of Section 42450.10.

18 (c) Submit the annual report required by Section 42450.9.

19 (d) *(1) Contact cities, counties, districts, and regional agencies,*
20 *in whose jurisdictions the program will be implemented, to do*
21 *either, or both, of the following:*

22 *(A) Reimburse the local public agency for the mutually agreed*
23 *upon cost of collecting household batteries.*

24 *(B) Provide the local public agency with products to set up a*
25 *collection point at that agency and provide for pickup of household*
26 *batteries collected, including, but not limited to, arranging for the*
27 *disposal of those household batteries.*

28 *(2) A local agency that elects to participate in either of the*
29 *activities specified in paragraph (1) shall separate from any other*
30 *materials the household batteries made available for collection*
31 *by the producer or household battery stewardship organization.*

32 42450.8. (a) A wholesaler or a retailer that distributes or sells
33 household batteries shall monitor the department's Internet Web
34 site to determine if the sale of a producer's household batteries is
35 in compliance with this article.

36 (b) A retailer shall have 90 days from the date a noncompliant
37 brand is posted on the department's Internet Web site to sell the
38 remaining stock of those noncompliant household batteries or to
39 remove the product from sale. An enforcement action shall not be

1 taken against a retailer pursuant to this article with regard to that
2 noncompliant brand until after that 90-day period has expired.

3 42450.9. (a) On or before April 1, 2014, and every subsequent
4 year thereafter, each producer or household battery stewardship
5 organization implementing a plan shall prepare and submit to the
6 department an annual report describing the activities carried out
7 pursuant to the plan during the previous calendar year. The annual
8 report shall include, but is not limited to, all of the following:

9 ~~(1) The extent to which each element of the plan specified in~~
10 ~~subdivision (c) of Section 42450.2 is attained, including, but not~~
11 ~~limited to, achieving the collection rate specified in the plan.~~

12 ~~(2) The actions that the producer will take during the next~~
13 ~~reporting period to meet the product goals specified in the plan~~
14 ~~that have not been met.~~

15 ~~(3) A report of the total sales data for household batteries sold~~
16 ~~in the state for the previous three calendar years.~~

17 ~~(4) Independently audited financial statements that detail the~~
18 ~~financing method selected to sustainably fund the implementation~~
19 ~~of the plan for achieving the identified collection rates as described~~
20 ~~in the plan, pursuant to paragraph (2) of subdivision (c) of Section~~
21 ~~42450.2.~~

22 ~~(b) The department shall review an annual report submitted~~
23 ~~pursuant to this section and shall deem it complete if the~~
24 ~~department determines the report contains the information required~~
25 ~~by this section. following elements:~~

26 ~~(1) The number of household batteries collected by the program~~
27 ~~in the prior year and the collection rate achieved in the prior year.~~

28 ~~(2) A report of the total sales data for household batteries sold~~
29 ~~in the state for the previous three calendar years.~~

30 ~~(3) A report on the feedback from a stakeholders' meeting,~~
31 ~~hosted by producers, that was made available by Web cast, prior~~
32 ~~to submittal of the annual report.~~

33 ~~(4) Independently audited financial statements that detail the~~
34 ~~financing method selected to sustainably fund the implementation~~
35 ~~of the plan to achieve the identified collection rates described in~~
36 ~~the plan, pursuant to paragraph (4) of subdivision (c) of Section~~
37 ~~42450.2.~~

38 ~~(5) Locations, hours, and contact information for all collection~~
39 ~~points set up by the producers covered by the plan.~~

1 (6) *Examples and description of educational materials used to*
2 *increase collection.*

3 (b) *The department shall review an annual report by doing all*
4 *of the following:*

5 (1) *Conducting a random check of collection points to ensure*
6 *the program is collecting household batteries and that local public*
7 *agencies are provided the services specified in paragraph (1) of*
8 *subdivision (d) of Section 42450.7.*

9 (2) *If the report is submitted for the 2018 calendar year, and*
10 *each year thereafter, certifying that the collection points listed in*
11 *the annual report are located in every county and are established*
12 *at a minimum of one site per 10,000 people or one site per 5,000*
13 *people, as specified in subparagraph (D) of paragraph (3) of*
14 *subdivision (c) of Section 42450.2.*

15 (3) *Reviewing sales data and collection numbers provided for*
16 *the state to verify collection rates.*

17 (4) *If a collection rate increase of 5 percent is not achieved,*
18 *verifying that the next year's financial statements indicate a*
19 *10-percent increase in the amount the program will spend on*
20 *collection, education, and outreach.*

21 (5) *Verifying that all annual report elements specified in*
22 *subdivision (a) have been addressed in the report.*

23 (c) *If the department does not act on a report within 45 days of*
24 *receipt, the report shall be deemed to be complete.*

25 (d) *The department shall make all reports submitted to the*
26 *department pursuant to this section available to the public on the*
27 *department's Internet Web site.*

28 (e) *If the collection rate for the household batteries subject to*
29 *the plan meets the collection rate specified in subparagraph (B) of*
30 *paragraph (2) of subdivision (c) of Section 42450.2, the report*
31 *shall be submitted once every two years.*

32 42450.10. (a) (1) *A producer or household battery stewardship*
33 *organization that submits a battery stewardship plan to the*
34 *department shall pay a plan review fee to the department pursuant*
35 *to this subdivision.*

36 (2) *The department shall set the plan review fee at an amount*
37 *so that the total amount of plan review fees received by the*
38 *department is no more than necessary to cover the reasonable costs*
39 *of reviewing and enforcing the plan. The department may establish*
40 *a variable plan review fee based on relevant factors, including, but*

1 not limited to, the proportion of household batteries produced by
2 the feepayer as compared to the total amount of batteries produced
3 by all producers or household battery stewardship organizations
4 submitting a household battery stewardship plan. The department
5 shall establish the fee so that the manner in which the fee is
6 allocated bears a fair and reasonable relationship to the
7 department's costs in reviewing a plan.

8 (3) The fee shall be due to the department upon submittal of the
9 plan.

10 (b) (1) A producer or household battery stewardship
11 organization required to submit an annual report pursuant to this
12 article shall pay an annual administrative fee to the department
13 pursuant to this subdivision.

14 (2) The department shall set the annual administrative fee in an
15 amount that is no more than necessary to cover the reasonable
16 costs of reviewing annual reports and enforcing this article. The
17 department may establish a variable annual administrative fee
18 based on relevant factors, including, but not limited to, the
19 proportion of household batteries produced by the feepayer, as
20 compared to the total amount of household batteries produced by
21 all producers or household battery stewardship organizations
22 submitting an annual report, and whether the producer is submitting
23 a plan every two years as specified in subdivision (e) of Section
24 42450.9. The department shall establish the fee so that the manner
25 in which the fee is allocated bears a fair and reasonable relationship
26 to the department's costs in reviewing the annual reports and
27 enforcing this article.

28 (3) The fee shall be due to the department upon submittal of the
29 annual report.

30 (c) The total amount of fees collected pursuant to this section
31 shall not exceed the amount necessary to recover costs incurred
32 by the department in connection with the administration and
33 enforcement of the requirements of this article.

34 42450.11. (a) The Household Battery Stewardship Account
35 and the Household Battery Stewardship Penalty Subaccount are
36 hereby established in the Integrated Waste Management Fund.

37 (b) All fees collected pursuant to this article shall be deposited
38 in the Household Battery Stewardship Account and may be
39 expended by the department, upon appropriation by the Legislature,
40 to cover the department's costs to implement this article.

1 (c) All penalties collected pursuant to this article shall be
2 deposited in the Household Battery Stewardship Penalty
3 Subaccount and may be expended by the department, upon
4 appropriation by the Legislature, to cover the department's costs
5 to implement this article.

6 (d) All funds that are collected or received by the department
7 pursuant to this article, other than the fees specified in subdivision
8 (b), may be expended as incentives to enhance reuse, recyclability,
9 and redesign efforts and to reduce environmental and safety impacts
10 of household batteries.

11 ~~42450.12. (a) If, after holding a public hearing, the department~~
12 ~~finds that a producer has failed to make a good faith effort to~~
13 ~~comply with this article, including, but not limited to, failing to~~
14 ~~submit a plan pursuant to Section 42450.2 or failing to submit an~~
15 ~~annual report pursuant to Section 42450.9, the department shall~~
16 ~~issue a compliance order with a schedule for achieving compliance.~~

17 ~~(b) If, after issuing an order and schedule for compliance~~
18 ~~pursuant to subdivision (a), the department finds that the producer~~
19 ~~has failed to make a good faith effort to comply with this article,~~
20 ~~the department may impose an administrative civil penalty of five~~
21 ~~thousand dollars (\$5,000) per day until the producer achieves~~
22 ~~compliance.~~

23 ~~(c) For purposes of this section, "good faith effort" means all~~
24 ~~reasonable and feasible efforts by a producer or the program~~
25 ~~implementing a plan deemed complete by the department towards~~
26 ~~implementing the requirements of this article, including, but not~~
27 ~~limited to, meeting the collection rate specified in the plan.~~

28 ~~(d) If a household battery stewardship organization or hazardous~~
29 ~~waste transporter submits a plan on behalf of a producer pursuant~~
30 ~~to Section 42450.2, which plan is deemed complete by the~~
31 ~~department, and the department finds the program established by~~
32 ~~the plan has made a good faith effort to implement this article, the~~
33 ~~department shall not deem the producer to have failed to make a~~
34 ~~good faith effort to implement this article.~~

35 ~~42450.13. (a) The department may impose an administrative~~
36 ~~civil penalty not to exceed one thousand dollars (\$1,000) per day~~
37 ~~against a wholesaler or retailer that violates Section 42450.6.~~

38 ~~(b) A wholesaler or retailer that removes from sale any~~
39 ~~household battery within 90 days of discovery that it is not in~~

1 compliance with this article shall not be deemed to be in violation
2 of Section 42450.6.

3 (c) Prior to enforcing any penalty pursuant to this section, the
4 department shall issue a compliance order to the wholesaler or
5 retailer selling the household battery allowing 30 days from the
6 date of the compliance order to cease sales of the household battery.

7 42450.16. This article does not limit, supersede, duplicate, or
8 otherwise conflict with the authority of the Department of Toxic
9 Substances Control under Section 25257.1 of the Health and Safety
10 Code to fully implement Article 14 (commencing with Section
11 25251) of Chapter 6.5 of Division 20 of the Health and Safety
12 Code, including the authority of the department to include
13 household batteries in its household battery registry.

14 42450.17. (a) Except as provided in subdivision (b), any action
15 taken to increase the recycling of household batteries pursuant to
16 this article by a producer, stewardship organization, or hazardous
17 waste transporter that affects the types or quantities being recycled
18 or the cost and structure of any return program is not a violation
19 of either the Cartwright Act (Chapter 2 (commencing with Section
20 16700) of Part 2 of Division 7 of the Business and Professions
21 Code), or the Unfair Practices Act (Chapter 4 (commencing with
22 Section 17000), of Part 2 of Division 7 of the Business and
23 Professions Code).

24 (b) Subdivision (a) shall not apply to any agreement establishing
25 or affecting the price of household batteries or the output or
26 production of household batteries, or any agreement restricting
27 the geographic area in which, or customers to whom, household
28 batteries ~~with~~ will be sold.

29 SEC. 3. Article 5 (commencing with Section 44220) is added
30 to Chapter 3 of Part 4 of Division 30 of the Public Resources Code,
31 to read:

32
33 Article 5. Universal Waste Management Facilities
34

35 44220. For purposes of this article, the following definitions
36 shall apply:

37 (a) “DTSC” means the Department of Toxic Substances Control.

38 (b) “Project” means the construction, expansion, or retrofitting
39 of a solid waste facility to process, collect, or recycle a universal
40 waste.

(c) “Universal waste” has the same meaning as defined in Section 25123.8 of the Health and Safety Code.

44221. Notwithstanding Section 44103, a project is eligible for the permitting process established by this article if the project meets all of the following requirements, as determined by DTSC:

(a) The project complies with the ~~Global Warming Solutions Act (Division 25.6 California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~

(b) The project complies with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(c) The project is capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to source reduction, recycling, proper handling of universal and hazardous waste, and greenhouse gas reduction.

44222. (a) Upon the request of an applicant for a project, the DTSC shall appoint an administrative liaison within DTSC to serve as the applicant’s single point of contact with the DTSC with respect to the requirements of any permit or authorization required by Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(b) The administrative liaison shall provide information to the applicant regarding the status of, and coordinate the review and decisionmaking process with respect to, the applications and permits required by DTSC for the project.

(c) DTSC shall provide all of the following to a project applicant for a permit or authorization required by Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code:

(1) A consolidated project information form to collect the information required to complete all permits for the project.

(2) A method for tracking the progress of the permit application through the permitting process, including the identification of a staff person responsible for monitoring the permit progress.

(3) A process for determining whether the consolidated project information form is complete upon its submission.

(4) Timetables for action on the permit application.

(5) An expedited appeal process, to ensure fair treatment to the applicant, using existing agencies, staffs, commissions, or boards, where possible.

1 (d) The DTSC shall give the highest priority to a project for
2 which, as of January 1, 2012, an applicant has submitted an
3 application for a permit or authorization required by Chapter 6.5
4 (~~commence~~ *commencing* with Section 25100) of Division 20 of
5 the Health and Safety Code.

O